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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,898	10/19/2005	Simon Robert Ward	JAMES103.001APC	1060

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EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/02/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/02/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/523,898

Applicant(s)

WARD, SIMON ROBERT

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/15/06; 12/15/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, *the jaw displacement system* (clm. 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The Abstract contains legal phraseology such as: *disclosed*, *adapted to* and *wherein*; such language should be avoided in the Abstract. Correction is required.

The disclosure is objected to because of the following informalities:

-Pg. 2, line 28 to pg. 3, line 1, "*pertinency of the cited understood...*" is not grammatically correct

-Pg. 7, line 27, "*subsequently block fall against...*" is not grammatically correct

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. With regard to claim 1, the recitation, “and/or” renders the claim indefinite, i.e., is it, *adjacent upper and lower jaws* or is it *adjacent upper or lower jaws*. Clarification is required.

With regard to claim 12, neither the specification nor the drawing illustrate a jaw displacement system, it is unclear how the jaw displacement system cooperates and interrelates with the positively recited elements of the claim. Although no prior art has been applied to claim 12, the claim as presently presented is not deemed allowable. Clarification is required to facilitate a clear understanding of the claimed invention and proper application of the prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-11, 13-15 and 18 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Alexandersson (4,406,412). Alexandersson discloses a cutting or crushing implement comprising: a plurality of sets of jaws (figs. 1-3) each set of jaws including opposing upper and lower jaws which are positioned side by side and are pivotable about and displaced along a common axis, wherein adjacent upper “and/or” lower jaws are displaced relative to one another about said axis so that when operated the sets of jaws are together adapted to cut or crush a single length of material at a plurality of separate points along the length of said material, and whereby a single actuation of said implement is adapted to cause each of said sets of jaws to at least partially close in sequence (col. 2, lines 47-61).

With regard to claim 2 as best as can be understood, Alexandersson discloses wherein the consecutive closing of adjacent sets of jaws places a first set of jaws in a cutting or crushing configuration and second immediately adjacent set of jaws in a substantially clamping configuration.

With regard to claim 3 as best as can be understood, Alexandersson discloses wherein said sets of jaws are adapted to pivot closed to complete a cutting or crushing/shearing operation.

With regard to claim 4 as best as can be understood, Alexandersson discloses wherein a single actuation of the implement is capable of causing all the sets of jaws to close.

With regard to claim 5 as best as can be understood, Alexandersson discloses actuation through the operation of a hydraulic ram (12, 13, 14, 16, 17, 18, 19).

With regard to claim 6 as best as can be understood, Alexandersson discloses wherein the sets of jaws are all adapted to pivot about a single common axis to at least partially close.

With regard to claim 7 as best as can be understood, Alexandersson discloses wherein one jaw from each set of jaws (2) is fixed. (col. 2, lines 7-10).

With regard to claim 9 as best as can be understood, Alexandersson discloses opposing jaws adapted to move together to cut, crush, crack or shear material (col. 2, lines 7-16).

With regard to claim 10 as best as can be understood, Alexandersson discloses the plurality of sets of jaws are adapted to each execute a separate cut through a material.

With regard to claim 11 as best as can be understood, Alexandersson discloses each of the sets of jaws adapted to close at separate positions along the material.

With regard to claim 13 as best as can be understood, Alexandersson discloses two opposed V-shaped jaw elements.

With regard to claim 14 as best as can be understood, Alexandersson discloses wherein each jaw includes at least one blade, wherein each blade incorporates a leading edge.

With regard 15 as best as can be understood, Alexandersson discloses wherein the leading edge of each blade is oriented opposite to a leading edge.

With regard to claim 18 as best as can be understood, Alexandersson discloses a cutting/crushing implement adapted to cut/crush, crack or shear a variety of different types of material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17 and 19 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Wack (5,183,216) in view of Alexandersson (4,406,412). Wack discloses an apparatus for cutting/crushing material wherein the apparatus is adapted to be attached to excavator machinery and having a driving ram. Wack does not disclose a plurality of jaw sets. Alexandersson teaches as noted above (see clm.1) an apparatus for crushing material wherein the apparatus includes a plurality of jaw sets. Because the references are from a similar art, it would have been obvious at the time of the invention to one having ordinary skill in the art to replace, Wack's cutting/crushing implement with a cutting /crushing implement having a plurality of jaw sets so as to efficiently cut/shear/crush material as taught by Alexandersson.

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Moreover, it would have been equally obvious at the time of the invention to the skilled artisan to construct Altmayer's cutting/crushing implement to be adapted to be connected to demolition/excavator equipment so as to position the cutting/crushing apparatus for efficient cutting/crushing/shearing of material as taught by Wack

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or fairly *suggest wherein each of the jaws fixed relative to the common pivot axis are fixed at a different angle* in combination with the rest of the positively claimed limitations as set forth in claim 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lowell Larson can be reached on 571-272-4519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SSelf
Patent Examiner
January 30, 2007